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| 10/662,992 | 09/15/2003 | F. Conrad Greer | 50715/P004US/10311738 | 2249 |

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**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

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BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES

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*Ex parte* F. CONRAD GREER,
RONALD L. ELSENBAUMER,
and DAVIS P. OWEN

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Appeal 2009-001401
Application 10/662,992
Technology Center 1700

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Decided:[1] June 30, 2009

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Before TERRY J. OWENS, PETER F. KRATZ, and
JEFFREY T. SMITH, *Administrative Patent Judges*.

SMITH, *Administrative Patent Judge*.

DECISION ON APPEAL

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[1] The two-month time period for filing an appeal or commencing a civil action, as recited in 37 C.F.R. § 1.304, begins to run from the decided date shown on this page of the decision. The time period does not run from the Mail Date (paper delivery) or Notification Date (electronic delivery).

Statement of the Case

DECISION ON REQUEST FOR REHEARING

This is in response to a Request for Rehearing ("Request"), dated May 18, 2009, of our Decision, mailed March 31, 2009 ("Decision"), wherein we affirmed the Examiner's § 103 rejection of appealed claims 1-34.

Appellants contend that the Board has denied the Appellant a proper obviousness analysis of the rejected claims because the Board focused only on particular asserted teaching of Zuzich and Mahmood without considering the differences between the claims and each reference. (Request 2-3).

We do not find Appellants' contentions persuasive of error in our Decision. The obviousness rejection presented for review was over the combination of Wojtowicz, Mahmood, and Zuzich. However, Appellants' allegations of error are directed to the applied prior art considered individually rather than to the combination of the Wojtowicz, Mahmood, and Zuzich references. These arguments are not persuasive because obviousness cannot be rebutted by attacking references individually where the rejection is based upon the teachings of a combination of references. A reference must be read, not in isolation, but for what it fairly teaches in combination with the prior art as a whole. *In re Merck & Co.*, 800 F.2d 1091, 1097 (Fed. Cir. 1986). Appellants have not particularly pointed out what we overlooked or misapprehended in our Decision based on the arguments presented on the appeal record before us.

The Examiner found that Wojtowicz disclosed a process of producing metal fluorides comprising introducing anhydrous metal or metal compounds into a vessel containing anhydrous hydrofluoric acid. The Examiner found that Mahmood and Zuzich were evidence that the controlled addition of the reaction components was known by persons of ordinary skill in the art to maintain appropriate reaction conditions (whether exothermic or endothermic). In other words, the Examiner found and the record supports that the level of skill in the art was such that one of ordinary skill in the art would have been led to conduct the metal addition of Wojtowicz at a controlled rate, including at an appropriate interval, so as to control the reaction temperature together with using conventional heat supply techniques (Ans. 8-9). Given the above, our Decision correctly reflects appropriate consideration of the applied references teachings by the Examiner. As such the Examiner properly concluded that it would been obvious for one with ordinary skill in the art to perform the claimed process of producing metal fluorides comprising introducing anhydrous metal or metal compounds into a vessel containing anhydrous hydrofluoric acid under controlled reaction conditions utilizing the known techniques exhibited in Wojtowicz, Mahmood and Zuzich. (Decision 7).

For the above stated reasons and for the reasons expressed in our Decision, Appellants did not show error in the Examiner's obviousness conclusion based on the arguments set forth in the Appeal Brief and Reply Brief.

The Request for Rehearing is DENIED.

No time period for taking any subsequent action in connection with this appeal may be extended under 37 C.F.R. § 1.136(a)(1)(v).

DENIED

PL Initial:
sld

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